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Collective Agency: Moral and Amoral

Forthcoming in *Dialectica*

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ABSTRACT. Proponents of corporate moral responsibility have provided a number of accounts of corporate moral agency. But these accounts do not shed light on how a collective agent might fail to be a moral agent. I explain the difference between moral and amoral collective agents in terms of the notion of a normative perspective. I argue that, in order for a collective agent to be a moral agent, it has to have a normative perspective that is suitably supported by its members. I develop this idea both from a rationalist and from a sentimentalist point of view. According to the rationalist proposal, the members have to collectively accept the normative perspective. The sentimentalist proposal also requires that it be suitably supported by collective member emotions. These simulate the epistemic and volitional roles that genuine corporate emotions would play. The upshot is that an amoral collective agent either lacks a normative perspective altogether, or that its normative perspective is not suitably supported by its members.

Collective Agency: Moral and Amoral

Collective agents such as governments and corporations sometimes do bad things like torturing people or polluting the environment. When bad things happen, people typically start wondering whether someone is to blame (Guglielmo, Malle, and Monroe 2009). However, in order for it to make sense to hold collective agents responsible, it must be possible for them to be moral agents. And it is not at all obvious that they can be.¹ Existing accounts equate moral collective agency with rational collective agency (French 1984, Copp 2006, Pettit 2007, List and Pettit 2011, Hess 2014). They explicate collective agency in terms of a collective decision procedure that tends to issue in rational decisions. But these rationalist accounts face a problem that has thus far remained unaddressed: an agent can be prudentially rational without being a moral agent. Think, for instance, of psychopaths; they are commonly conceived of as both rational and amoral (Nichols 2004). In light of this, a full-blown account of moral collective agency should explain what the difference is between a collective agent that is a moral agent, and one that is merely a rational agent. I refer to this challenge as ‘the Problem of Amoral Agency’.

The solution that I propose in this paper centers on the notion of a normative perspective. Such a perspective consists of an appropriate range of normative policies that serve to systematically bring normative considerations to bear on the decisions of the agent. I propose, that a collective agent is a moral agent exactly if it has its own normative

¹ See Quinton (1975) and Narveson (2002) for criticisms of the idea that collectives can be agents.

perspective.² And for this to hold, its members have to suitably support that perspective. Furthermore, I develop this proposal both from a rationalist and a sentimentalist point of view. They differ in how they explicate member support. The rationalist version of the proposal requires that the members (collectively) accept the normative perspective. What the sentimentalist adds to this is that the corporate normative perspective be suitably supported by (collective) member emotions.³ According to both, a collective agent can fail to be a moral agent first, by not having a normative perspective at all, or second, by it not being suitably supported by its members. In either case, the collective agent is sensitive only to prudential considerations. In this way, the proposal that I defend here solves the Problem of Amoral Agency.

To this end, I develop a theoretical framework for understanding collective agency that accommodates both *moral agency* and *amoral agency* from *a rationalist* as well as *a sentimentalist perspective*. I present the rationalist version of my proposal in section 1, and the sentimentalist version in section 2. The sentimentalist version is particularly challenging. Thus far, sentimentalists have denied that there can be collective agents that are moral agents because organizations cannot feel anything (Ewin 1991, Rönnegard and Velasquez 2017). However, collective agents can have functional equivalents of moral emotions (Björnsson and Hess 2017). Their roles can be fulfilled, I propose, by (collective) member emotions that suitably support the normative perspective of the collective agent. Thus, the framework presented can explain – both from a rationalist and from a

² As I discuss in section 1.4, this proposal is indebted to Bratman's (2004) notion of a policy of shared valuing.

³ Just as French (1984), I do not restrict the term 'corporate' to corporations but use it as a term for features of collective agents in general.

sentimentalist point of view – why some collective agents are moral agents, whereas others are not.

1. Rationalism about Corporate Moral Agency

1.1 Rational Collective agents

Rationalists typically assume that rational agents are by definition moral agents (Kant 1996: 439, Kerstein 2009: 165). Relying on this assumption, Peter French (1984), David Copp (2006) and Christian List and Philip Pettit (2011) defend the claim that collectives can be rational agents and conclude that they can be moral agents. From a commonsense perspective, however, it appears that an agent can be rational without being moral. In particular, some agents act exclusively on the basis of self-interested reasons or prudential considerations. Very young children are not yet able to recognize other-regarding considerations as valid reasons for action; and it has been argued that the same holds for psychopaths (Blair 1995, Kohlberg 1984, Nichols 2004, Turiel 1983). In response, the rationalist has to reject the assumption or distinguish between different kinds of rationality and link moral agency to only one of them.⁴

I use the notion of normative competence to provide for a neutral characterization of moral agency. It concerns normative considerations in general and other-regarding considerations such as harm and fairness in particular. Normative competence is the ability to decide and act in a way that is suitably responsive to normative considerations.

⁴ Darwall recognizes the possibility of rational but amoral agency when he argues that 'rational agency seems possible without even the capacity to care about a person, oneself or another, for that person's sake.' (1997: 168-70)

Responding to such a consideration is, in the first instance, a matter of it playing a role in the agent's decision-making, and in the second instance, of it guiding what the agent does (Wallace 1994; cf. Scanlon 1998, and Fischer and Ravizza 1999). This ability is what distinguishes moral agents from amoral agents. Existing rationalist accounts of moral collective agency do not feature an adequate account of normative competence. Because of this, they fail to solve the Problem of Amoral Agency.

Before presenting my solution in sections 1.3 and 1.4, I briefly discuss the most influential existing proposals – French (1984) and List and Pettit (2011) – and substantiate my claim that they cannot explain the difference between moral and amoral collective agents. French proposes that a collection of individual agents forms a collective agent in virtue of a Corporation's Internal Decision (CID) structure. Such a CID structure consists of procedures and policies that concern decision-making and action. It also features a commonly known division of tasks and roles. Collective agents act for group reasons, and they form intentions by means of their CID structures. And they can reflect on the good and bad events they caused unintentionally and modify their behavior in the light of them. The crucial point is that CID structures enable collective agents to think, decide and act in a rational manner. All and only those groups that have a CID structure are moral agents.⁵

Does this proposal have the resources to distinguish between moral and amoral collective agents? According to French, the very fact that a collective has a CID structure entails that it is both a rational and a moral collective agent. This suggests a negative answer. In defense of French, one could propose that collective agents are amoral if they

⁵ French (1984: 168) goes further than this and claims that they are moral persons. Because of this, they have all the rights and responsibilities that come with this status. See Hindriks (2014) for a discussion.

lack the ability to modify behavior in the light of past good and bad events. The problem with this is that French does not explain in virtue of what collective agents are able to do this. It appears that, on his view, any agent with a CID structure has this ability. Because of this, it remains unclear how some collective agents might fail to recognize the force of normative considerations. Thus, French does not offer an adequate account of normative competence. And his theory cannot solve the Problem of Amoral Agency.

1.2 Moral Members

Just as French, List and Pettit (2011) argue that, in order for a collective agent to be rational, it has to rely on a rational decision procedure. Pettit argues that a rational collective agent strives 'to endorse only views that can be integrated with one another in a single rational vision' (2003a: 79). List and Pettit develop a detailed account of how a collective decision procedure can meet rationality requirements such as consistency. A central feature of their account is that it allows for discontinuities between corporate attitudes and member attitudes.

Consider a tenure committee that has to decide whether to grant someone tenure.⁶ For each of three dimensions on which the candidate is evaluated – research, teaching, and service – a majority of two out of three supports the claim that the candidate meets the requirements. As it happens, each of the members of the committee believes the candidate to be unsatisfactory on one of the three dimensions, a different quality for each of the members. If the committee reaches a decision by means of majority voting and the

⁶ What follows is an illustration of the so called 'Discursive Dilemma', which is discussed extensively in List and Pettit (2011).

members cast votes on the individual qualities, the candidate will be accepted even though none of the members supports this decision. In this sense, the committee's decision diverges from the beliefs of its members. It does so in order to achieve rational unity at the collective level.

List and Pettit maintain that collective agents that strive for rational unity in this way are moral or autonomous agents, or, in my terms, normatively competent. When they face normatively significant choices, they have 'the understanding and access to evidence required for making normative judgments about the options', as well as 'the control required for choosing between the options' (List and Pettit 2011: 155; see also Pettit 2007: 175). Pettit argues that 'the salient, if not the only, way in which a collective agent might fail to qualify as autonomous or normatively competent is through failing to be an agent that is distinct from the agents who are its members' (2007: 180). And it fails to be a distinct agent when its attitudes cannot diverge from those of its members, as they do in the tenure committee example. This in turn will be true only if it does not apply the requirements of rationality at the collective level. More recently, Pettit has argued that 'all conversable [rational] agents are fit to be held responsible' (2017: 16). Furthermore, he claims that it is incoherent not to regard a rational collective agent as a moral agent (ibid.: 32-33). This entails that rational agency and moral agency stand or fall together. Thus, Pettit's account does not provide the means for solving the Problem of Amoral Agency either.

In joint work with List, however, Pettit has argued that properly designed collective agents have normative understanding because its members do (List and Pettit 2011: 158-59). Members who have normative understanding can contribute normative considerations to the decision process. List and Pettit (2011: 159) observe that a collective agent might

systematically constrain its members from contributing normative propositions to the decision process (see also Hedahl 2013: 289). Such a collective agent is not a moral agent. This implies that a group can be prudentially rational and fail to be a moral collective agent. This reveals that List and Pettit's theory of collective agency goes some way towards solving the Problem of Amoral Agency.⁷

However, it is far from obvious that the absence of such a constraint suffices for a collective agent to be a moral agent. It might be that the members of a collective agent contribute normative considerations to the decision process on an infrequent and *ad hoc* basis. Consider a collective agent that has profit-maximization as its only goal. It is structured in such a way that people at key positions evaluate performance of other members on the basis of how their actions contribute to this goal and this goal only. As a consequence, the incentives that members face are all geared towards profit. The individual costs of bringing up other-regarding considerations within the collective agent may, as a consequence, be so high that in practice hardly anyone does. The organizational context crowds out such considerations, which means that the collective agent as such rarely attends to them, if at all. Perhaps harm and fairness feature in its proceedings only to the extent that in some way it forms a liability for the collective agent. Now, proper moral agents are sensitive to normative considerations in a more systematic and robust way than this.

In a similar vein, Larry May argues: 'The value of maximizing profit can easily replace moral values, at least in a restricted realm such as a workplace, and can transform

⁷ A collective agent will presumably also be an amoral agent if all of its members lack normative competence.

the values of individuals who would normally place other values, such as service, ahead of profitability. Indeed, institution-defining policies can even become the kind of value that one feels conscientiously bound to uphold over other values.' (1992: 77-78) At least to the extent that they will be costly, such a collective agent is not in a position to adopt and effectively employ normative policies. This suggests that a collective agent can fail to be a moral agent even if it allows members to contribute normative propositions to the decision process. In light of this, I conclude that List and Pettit fail to provide an adequate solution to the Problem of Amoral Agency. The conditions they specify are too weak to suffice for moral collective agency. I will argue next that a properly designed moral collective agent systematically enables its members to do put forward normative propositions as input to corporate deliberation.⁸

1.3 A Normative Perspective

In order for a prudentially rational collective agent to acquire normative competence, it should include normative considerations in its decision process on a systematic rather than an ad hoc basis. It can do so by adopting a suitable range of normative policies (cf. Bratman 2004). Such policies serve to bring pertinent normative considerations to bear on the decision-making process. They specify what counts in favor or against a decision. Consider a corporation that develops a plan for a new manufacturing process. If a fire were to break

⁸ List and Pettit (2011) assume that the decision-making procedure of a collective agent meets a condition known as universal domain, which means that any arbitrary proposition can feature in the agent's decision-making process. If this condition is satisfied, the agent can make decisions that feature morally significant propositions. The discussion in the main text suggests, however, that it is far from trivial for a collective agent to satisfy this condition. Section 1.3 discusses, in effect, how it can achieve this.

out in the envisaged plant, chemicals would be released into the air and pose a health hazard to the people living in the area. Now, if an appropriate and effective normative policy is in place, it provides for a safeguard such that environmental concerns are properly addressed before a final decision is made. The design of the plant can then be adjusted accordingly.

Because reasons are often interconnected, a decision process has to be sensitive to a range of relevant considerations in order to reliably issue in balanced judgments. A corporation might, for instance, face trade-offs between profitability and the environment, or between the safety of its employees and the health risks for people living in the area. As another example, a fair strategy for promoting employees might require the corporation to consider values such as merit and equality together. Because of such interdependencies, a collective agent has to possess a suitably broad and effective range of normative policies in order to be a moral agent. I will say that such a collective agent has 'a normative perspective'. This proposal provides for a solution to the Problem of Amoral Agency: in contrast to moral collective agents, amoral collective agents do not have their own normative perspectives.

One might object that what matters is not whether a collective agent has in fact adopted a normative perspective, but whether it can do so. Presumably any collective agent can in principle adopt normative policies. The first thing to note in response is that this would imply that there could not be any amoral collective agents. Hence, the Problem of Amoral Agency would be insoluble. Secondly, although it might be true that any collective agent can put some such policies on the books, not all collective agents can employ them effectively. In section 1.2, I discussed an example in which normative considerations are

crowded out. The idea was that, due to external pressures such as the level of competition that a corporation faces, the collective agent would not apply any of the normative policies it had. This means that its normative perspective is ineffective.

Thirdly, a collective agent that has not adopted any normative policies can recognize only prudential reasons for doing so. Thus, it is in a predicament that is rather similar to that of a psychopath who sees reason to present herself as caring about others only when she stands to benefit from doing so. She does not recognize any reasons for genuinely caring about them. Similarly, a corporation might, for instance, veer interest in the environment when consumers appreciate this such that its sales will increase without recognizing the moral issue that is at stake. Now, collective agents might differ from psychopaths in that they can in principle adopt evaluative policies and come to appreciate pertinent normative considerations. But if they cannot appreciate proper reasons for doing so, this possibility is too remote to be morally relevant.⁹ For these three reasons, I believe that a collective agent must actually have adopted some normative policies in order to be a moral agent. The upshot is that what is distinctive of moral collective agents is that they have a normative perspective.¹⁰

⁹ In a similar vein, List and Pettit argue: 'The procedures of a group may even restrict its agenda to propositions of a purely descriptive kind, in which case the members can put normative propositions onto the agenda only if they are able to change the established procedures. Although it may be possible for members to change those procedures, this may still be difficult, so that the group's ability to make normative judgments remains only a remote one.' (2011: 159)

¹⁰ One might object that amoral collective agents have an obligation to adopt a normative perspective. The problem with this is that such collective agents are unable to recognize normative considerations, which means that they do not have moral obligations at all. Even so, the members of a collective agent might have duties to pursue the implementation of normative policies and transform it into a moral agent.

1.4 Collective Acceptance of Normative Policies

Having a normative perspective does not suffice, however. It might be that a collective agent adopts normative policies but does not apply them consistently. They are on the books, but do not systematically influence the decisions it makes. In light of this, I propose that, in order for a collective agent to be a moral agent, its normative perspective must be effective. This means that the normative policies are integrated with the collective decision procedure that it employs. And that it brings them to bear on the decisions it makes. When this is the case, the collective agent has appropriated a normative perspective.

Let me say more about what normative policies are and how they function. A collective agent can formulate normative policies in its statute. This, however, is neither necessary nor sufficient for them to be effective. In order for them to be effective, the members have to suitably support them. But what might this mean? In the case of an individual agent, an effective policy can be seen as a standing intention that is usually triggered when the situation calls for it. When this happens, the agent will typically apply the policy. Now, when a corporate policy is in place, a substantial proportion of the members of the collective agent follow it. They are disposed to bring particular normative considerations to bear on the decision process. In this way, a corporate policy can give rise to a social practice that informs and shapes corporate decisions.

But how can those members suitably support a corporate policy? An initially appealing proposal is that each of them has an individual standing intention. Perhaps this works well in a range of circumstances. However, such groups are likely to malfunction in the face of disagreement. The problem is that independent individual intentions provide

little guidance as to how to resolve tensions and conflicts between different policies and between different members. They leave open how to make tradeoffs between different values and what to do in the face of diverging opinions or interpretations.

Such tensions and conflicts can be resolved more adequately when members regard collective deliberation as a collaborative enterprise. When they do so, they will take themselves to be participants in a collective decision process in which they seek to apply the normative policies together. They try to develop a common understanding of these policies as well as of how they relate to one another. Furthermore, members will be inclined to take each other's input seriously as contributions that serve these ends. Acting together in these ways provides for a suitable means to interpret the policies and to converge on decisions that are adequately informed by them. This requires them to form what is known as a collective intention.

This proposal can be developed in one of two ways: bottom-up and top-down. The bottom-up perspective explicates collective intentions in terms of interlocking individual intentions, whereas the top-down perspective invokes joint intentions that apply to the group level. Michael Bratman's (2004, 2014, 2017) argues that collective normative policies – or in his terms 'policies of shared valuing' – are suitably general intentions to attribute certain weights to particular values when deliberating. Such policies are shared among the members of a group when their individual intentions interlock. This means, among others, that each individual formed it in part because the others did so as well and that this is out in the open. Shared policies support 'reliability, predictability, and explanatory intelligibility of relevant social thought and action' (2014: 139). They will normally be grounded in the individual value judgments of the members of the group. And

they come with shared commitments to the relevant values. However, as shared intentions are interlocking individual intentions, rationality requirements such as consistency and means-end coherence apply at the level of the individual agent.

The top-down perspective explicates collaborative deliberation in terms of joint intentions instead (Gilbert 1989, 2006, Tuomela 1995, 2013).¹¹ Just as shared intentions, joint intentions are a kind of collective intention. However, the latter unify a group to a greater extent than the former. Rather than consisting of interlocking individual intentions, a joint intention is a single intention of a group. When two or more individuals form a joint intention to doing something, they become jointly committed to doing it. They think in terms of the interests of the group or in terms of what is good for it. Because of this, rationality requirements apply at the collective level. This means that someone who is party to a joint commitment is under rational pressure to converge with other members on reasons for forming a joint intention or acting on it. Due to this feature, I propose, joint intentions tend to form a more effective basis for resolving tensions and conflicts than shared intentions.

When different people have different reasons for adopting a policy, this can present an obstacle for collective deliberation. Consider a shared policy to assign weight to the environment. Suppose someone adopted this policy because she is concerned with the environment as such, while someone else adopted it because he believes many environmentally friendly technologies often end up being cost-saving technologies. They may quickly run into problems when they engage in collective deliberation. When an

¹¹ In contrast to Gilbert (1989, 2006) and Tuomela (1995, 2013), I do not believe that joint intentions as such provide reasons or obligations to act accordingly.

environmentally friendly technology turns out to be cost-ineffective, she will but he will not take the shared policy to assign weight to the environment to bear on the decision at hand. It is far from trivial to resolve such a disagreement.

Problems such as this one are less likely to arise when individuals are jointly committed to normative policies. Bratman recognizes that there are cases of collective valuing in which individuals try to converge on a common rationale for an evaluative policy and acknowledges that groups that do so 'will likely be in a better position to respond to complexities about how to proceed in hard cases' (2014: 145). The thing to appreciate is that this is the standard case when individuals are jointly committed. They are under rational pressure to converge on joint reasons for adopting and employing normative policies. This means that conflicts such as the one just described are less likely to occur. When a policy is based on a common rationale, members will more often agree on how it is to be applied. Furthermore, when disagreements occur, they are easier to resolve. As compared to shared intentions, joint intentions sustain a more unified first-person normative perspective.

Thus, in order for a collective agent to be a moral agent, it has to have a normative perspective that is effective. This requires that its members suitably support the relevant normative policies. They can do so by forming corresponding collective intentions, preferably joint intentions. I will say that those who collectively intend to apply certain procedures and policies collectively accept those procedures and policies. And I propose that, in order for the normative perspective of a collective agent to be effective, it's members have to collectively accepted it. Thus, a well-functioning moral collective agent consists of a collection of individuals who have collectively accepted not only a generic

collective decision procedure but also a suitably broad range of normative policies that inform and constrain the collective decision process. This proposal implies that there are two ways in which a collective agent can fail to be a moral agent. First, it lacks a normative perspective. Second, it has a normative perspective, but it is not suitably supported by its members. The upshot is that, according to the rationalist, a collective agent is a moral agent exactly if it has an effective normative perspective.

2. Sentimentalism about Corporate Moral Agency

2.1 Collective agents and Moral Emotions

The core sentimentalist thesis is that normative competence requires the capacity to have moral emotions such as gratitude, guilt and resentment (Strawson 1962, Wallace 1994). Jesse Prinz (2008) defends a form of subjective sentimentalism when he argues that a particular kind of action is right (wrong) for a particular person exactly if that person is disposed to experience positive (negative) moral emotions with respect to that kind of action. For instance, stealing is wrong for someone exactly if this person tends to resent thefts and tends to feel guilty when she steals herself. If this person did not have these dispositions, stealing would not be wrong for her. Justin D'Arms and Daniel Jacobson (2000) defend a form of objective sentimentalism that is based on the assumption that having a moral emotion can be appropriate/inappropriate or rational/irrational. Perhaps resentment towards a poor person who steals bread for his family is inappropriate or irrational. This would entail that stealing is permissible in this situation. In this way, the

objective sentimentalist can accommodate the idea that good moral judgments are rational judgments.

It follows that, according to the sentimentalist, collective agents can be moral agents only if they can have moral emotions. The problem with this is that they cannot have feelings. Affective states have a subjective or qualitative aspect, which means that they are phenomenal states. Hence, experiencing feelings requires phenomenal consciousness (Chalmers 1995).¹² But there is no evidence that collective agents can be conscious (Theiner and O'Connor 2010: 84, 106). They are not sentient creatures and cannot experience pleasure and pain. The basic problem is that consciousness is not a functional property (Chalmers 1996): what it is like to have an emotion cannot be fully explicated in terms of the role that such a state plays in the agent's mind and behavior. This entails that an agent cannot have phenomenal states if it does not have the requisite constitution. As they have a constitution that is radically different from sentient creatures, collective agents cannot be conscious and do not have feelings (Rovane 1998, Copp 2006, Hess 2010, List and Pettit 2011, Tuomela 2013, Tollefsen 2015, List 2016; but see Schwitzgebel 2015). Hence, they cannot be moral agents.

It will turn out to be useful to spell out the premises of this argument in some more detail. The sentimentalist assumes first, that normative competence requires the capacity

¹² An agent that lacks phenomenal consciousness can still have awareness or access consciousness (Chalmers 1995, 1995, Block 1995). Arguably, this holds for collective agents. They can, for instance, have higher-order attitudes. And their intentional states are immediately available for use and guidance (Copp 2006: 197-200). Pettit argues that collective agents are 'disposed to act so as to try to satisfy those constraints' of rationality, which suggests they are aware of them (2003a: 79). Finally, attribution studies support the conclusion that collective agents lack phenomenal consciousness but possess access consciousness (Knobe and Prinz 2008, Arico 2010).

to have moral emotions. Second, emotions involve feelings. Third, feelings require phenomenal consciousness. Fourth, collective agents do not have such consciousness. Therefore, they cannot have feelings. This implies that they cannot have (moral) emotions. Hence, they cannot be moral agents.

To be sure, corporate members are conscious and have feelings. This observation, however, is of no use to the sentimentalist. Consider the fact that the members of a collective agent have a heart. Clearly, this does not entail that the collective agent has a heart. Someone who draws this conclusion commits the fallacy of composition. In light of this, it is perfectly coherent to affirm that corporate members are conscious but deny that collective agents are. At this point, it is hard to resist the conclusion that it is simply hopeless to try and develop a sentimentalist account of collective moral agency.

2.2 Functionalism About Moral Emotions

But why does the sentimentalist regard the capacity to experience moral emotions as a prerequisite for moral agency? It might be tempting to answer this question in terms of the moral significance of feelings in general and pain and pleasure in particular. An agent who can experience pain and pleasure can suffer and be vulnerable. Because of this, she is in need of protection. The problem with this answer is that pain and pleasure are relevant to moral patiency, and not to moral agency. Because of the connection with vulnerability, the former is often regarded as a prerequisite of moral rights, whereas the latter is a prerequisite of moral responsibilities. Thus, this consideration establishes at best that

moral patiency requires phenomenal states; it does not reveal that moral agency does so.¹³

In fact, it leaves open the possibility that feelings are incidental to moral agency.¹⁴

Moral emotions are important for moral agency because of the roles they play with respect to moral judgment as well as moral motivation. First, moral emotions enable agents to make accurate and reliable moral judgments. Christopher Kutz claims, for instance, that they help ‘to register the significance of harm.’ (2000: 196) He believes that collective agents lack emotions. And he regards this as troubling ‘because the efficacy of responses of accountability partially depends on affect’ (Kutz 2000: 196). Second, moral emotions enable agents to be motivated by other-regarding considerations. In their absence, agents are bound to be self-interested. R.E. Ewin and Bertram Malle suggest that this holds for collective agents. Ewin maintains that they ‘have no emotional life’ and that, because of this, they are ‘locked into selfishness’ (1991: 753 and 751). Malle argues that, if they lack moral emotions, collective agents will have ‘fewer moral scruples’ (2010: 134). They will treat punishment as nothing other than a cost to be taken into account when deciding what to do. Because of this, a collective agent will be seen as ‘a perfectly self-interested, calculating agent’ (ibid.: 123).

I agree that moral emotions play both an epistemic and a volitional role in moral agency. However, this does not as such entail that collective agents cannot be moral agents. To be sure, what it is like to experience an emotion cannot be explicated in terms of the role that this state plays in the agent’s mind and behaviors. But it might be possible to provide a

¹³ The case of animals reveals that the two can come apart: animals are moral patients but not agents.

¹⁴ In a similar vein, some rationalists argue that collective agents can be moral agents but not moral persons, because they lack phenomenal consciousness (List and Pettit 2011, Hess 2014). French (1984) argues that collective agents are both.

functionalist account of the roles that moral emotions play. Such an account would explain how these roles can be fulfilled in the absence of feelings. And this is all that is required. One way to make this point is to say that, even though collective agents cannot have feelings, they can have emotions. The idea would be that, whereas experiencing emotions requires feelings, having emotions does not. As it can have emotions, a collective agent can be a moral agent. If the relevant features of moral emotions can indeed be functionalized, collective agents can be moral agents but not patients (Hindriks 2014).¹⁵

Recently, Gunnar Björnsson and Kendy Hess (2017) and by Stephanie Collins (forthcoming) have suggested that moral emotions can indeed be functionalized so as to support moral collective agency. Collins proposes that corporate emotions can be explicated in terms of member emotions. I return to this idea in section 2.3. Björnsson and Hess (2017: 289, 290) argue instead that member emotions are neither necessary nor sufficient for collective moral agency. At the heart of their proposal lies the idea that corporate attitudes can be explicated in terms of commitments about facts and values. Such commitments are functionally equivalent to group beliefs, desires, and intentions. Depending on the commitments by which they are guided, corporate actions express good or ill will (ibid.: 280).¹⁶

¹⁵ The point can also be formulated in terms of quasi-emotions, which are states that fulfill the same roles as emotions without involving feelings. The claim would then be that collective agents can be moral agents because they can have quasi-emotions. On both formulations, the second, third and fourth premises of the argument presented in section 2.1 turn out to be irrelevant.

¹⁶ Gilbert (2002) presents a cognitivist account of collective emotions that does not invoke member emotions either. A group feels guilty when it has the joint belief that what the group did was wrong and its members act accordingly. Note that her account is meant to apply to groups, or plural subjects, that are not agents.

Björnsson and Hess illustrate their proposal in terms of an example concerning Acme, a manufacturer of industrial chemicals, that pollutes the environment. The board meets and votes in favor of taking responsibility. Acme gathers information, including information from its members concerning ‘what sorts of reactions are appropriate when one is responsible for harm’ (ibid.: 289). It reprimands managers, it donates to environmental causes, and it evaluates the pollution in order to remedy it. As Acme does whatever an agent who feels guilty does, the conclusion is that ‘Acme reacts with guilt’ (ibid.: 290).

A problem with this proposal is that Björnsson and Hess do not explain how Acme’s commitments generate all of these actions. The claim that attitudes can be captured in terms of commitments is as such not very informative. Björnsson and Hess do not explain how corporate commitments are realized. And they do not directly address the concerns about emotionless agents discussed in section 2.1: agents without emotions cannot suitably register the significance of harm, and they are bound to be selfish. Because their proposal lacks detail, Björnsson and Hess fail to show what they set out to establish, that the tears shed by corporations ‘need not be mere crocodile tears’ (ibid.: 275).

Another striking feature of their proposal concerns the relation between rational and moral agency. They maintain that ‘if certain collectives are capable of agency, then they are also capable of states sufficiently similar to guilt and indignation to satisfy the requirements of moral agency’ (ibid.: 274). The underlying idea is that any collective that is an agent can have moral emotions or at least the commitments that are functionally equivalent to them (ibid.: 282). They thereby collapse the distinction between rational and moral agency, or at least they come too close to doing so (see section 1.3 for three

arguments as to why this is a principled distinction). This in turn means that they lack the resources to account for corporate psychopathy. Because of this, they fail to solve the Problem of Amoral Agency.

2.3 Corporate Emotions and Member Emotions

Perhaps the emotions of a collective agent can be explicated in terms of the emotions of its members (Collins forthcoming). The main problem of this proposal is that there can be a discrepancy between emotions at the individual level and those at the group level. Consider the simplest version of this proposal:

- (1) A collective agent has some emotion exactly if its individual members personally experience this emotion.

Suppose that a corporation is filing for bankruptcy. Although its employees were very distressed at first, they are used to it now and most have already a new job lined up. Furthermore, it is a sunny day shortly before many of them go on a holiday. So personally, the employees are happy. It seems implausible to infer from this that the corporation is happy. This reveals that the emotion of a collective agent can diverge from that of its members, which creates a problem for explicating the former in terms of the latter. I refer to this as ‘the Discrepancy Problem’.

The problem from which the first proposal suffers is that it features the personal emotions of corporate members. This suggests that it can be improved by invoking emotions that members experience due to the role they have:

(2) A collective agent has some emotion exactly if its individual members experience this emotion in their capacity of members.

As they are sensitive to the roles people play, such member emotions can diverge from personal or private emotions. Furthermore, in particular when group members identify with the group, they will be tailored to the situation of the collective agent. Even so, member emotions can diverge from corporate emotions just as private emotions can. Consider a corporation that bribed and extorted officials. When this is made public, the perpetrators feel guilty as a member, while others might experience regret.¹⁷ The emotion that the corporation has, I will suppose, is guilt. Now, suppose that all of the perpetrators have left the corporation, and that each of the remaining members experience regret. Their member regret as such, however, cannot plausibly be taken to constitute corporate guilt.

In order to solve the Discrepancy Problem, the connection between corporate emotions and member emotions can be strengthened by requiring that the members emotions are shared. Just as intentions, emotions can interlock: an agent forms it in part because another does so as well. Furthermore, the fact that these attitudes are interdependent in this way is out in the open (Salmela 2012). This idea fuels a third version of the proposal:

¹⁷ Konzelmann (2007) argues that guilt is out of place for members who did not directly contribute to the wrongdoing, and that it is more appropriate for them to feel regret.

(3) A collective agent has some emotion exactly if its individual members *share* this emotion in their capacity of members.

Restricting member emotions to those that are in fact shared will in all likelihood decrease the number of discrepancies. However, it does not rule out the case in which all members feel regret while the corporate emotion is guilt. After all, the members might share their regret.¹⁸

It is important to realize that the Discrepancy Problem is not merely a theoretical problem. Because of this problem, the proposal to explicate corporate emotions in terms of member emotions cannot adequately capture their epistemic and volitional roles. For instance, regret tends to provide little motivation for making things right again. The reason for this is that, in contrast to guilt, regret does not entail that the agent believes she did anything wrong. It follows that shared member emotions are not functionally equivalent to corporate emotions. At this point, the prospects for the idea of explicating corporate emotions in terms of member emotions appear to be bleak.

2.4 Corporate Emotions and Normative Policies

In order to make further progress, I propose to have a closer look at what emotions actually are. I have in effect suggested that emotions are not exhausted by feelings. This entails that they feature one or more other components. According to a widely accepted view, someone

¹⁸ Schmid argues that a group emotion consists in the members sharing a single feeling episode or phenomenological experience, which ‘is something they have together, collectively, and that unites them to a self that is plural’ (2015: 14). This proposal suffers from the same problem.

who has an emotion experiences a feeling against the background of some concern (Deigh 2009). Fear, for instance, is a response to a threat. And an agent sees something as a threat against the background of a concern for her safety or wellbeing. As an aspect of an emotion, a concern structures the agent's attention and enables her to focus on features that are important relative to the concern at issue. Furthermore, it provides an evaluative background against which agents experience their emotions as well as evaluate their appropriateness. In light of this, emotions can be seen as appraisals.

So how, if at all, can a collective agent have concerns? I propose that a collective agent acquires a particular concern by adopting a normative policy to give weight to that concern in its practical deliberation.¹⁹ At this point, two insights from the discussion of rationalism in section 1 become relevant. First, I argued that, as normative reasons are interdependent, a collective agent should in fact adopt a suitable range of normative policies and thereby form a normative perspective. The point generalizes to concerns. Second, in order for a normative perspective to be suitably applied, the members have to collectively accept the relevant policies. A collective agent that satisfies these conditions meets the conditions for being a moral agent as the rationalist conceives of it. However, the sentimentalist will object that having a normative perspective as such does not provide for a functional equivalence of corporate moral emotions.

I propose that the sentimentalist should take the normative policies of a collective agent to be intimately related to collective – shared or joint – member emotions. The idea is that collective member emotions and normative policies mutually support and inform each other. According to the sentimentalist, normative policies are not self-interpreting.

¹⁹ See Schmid (2008, 2015) and Salmela (2012) for other accounts of group concerns.

Collective member emotions serve to construe concerns in a particular way. They enable members to focus on relevant features, and thereby facilitate the application of the policies. Conversely, concerns enable members to experience emotions and to engage in emotion-based reasoning from the perspective of the collective agent. I will argue that, because of this, corporate emotions can play the epistemological and volitional roles singled out earlier: to register the significance of morally relevant features, and to be motivated to do the right thing.²⁰

The crucial question at this point is how, if at all, normative policies can solve the Discrepancy Problem. Recall the corporation that bribed and extorted officials. I supposed that the corporation has an emotion of guilt, even though only the members who actively participated in these wrongdoings feel guilty. The others only experience regret. Now suppose that normative policies were in place that sustain the verdict that what the corporation did was wrong. Apparently, these policies were not applied appropriately. As they do support a negative verdict, the relevant members experience their collective emotions against the background of those policies. In other words, the members feel guilty or experience regret collectively in part because of the normative perspective of the collective agent and the verdicts it supports. Finally, the normative policies are supported by collective attitudes. Because of this, members mutually adjust their emotions to one another when they believe this is appropriate and maintain them in part because others

²⁰ Salmela (2012: 39) expresses a worry about the role of collective acceptance because emotions are so quick and spontaneous that committing to them might not be feasible. The notion of a policy or a standing intention resolves this worry, or so I propose. On my view, members experience emotions against the background of collectively accepted normative policies. This facilitates quick and spontaneous emotional appraisals.

have them. This is motivated in part by the corporate policies that support arriving at collective appraisals.

In section 2.3, I argued that corporate guilt cannot be explicated in terms of shared member regret or in terms of a mixture of member guilt and regret. Here I propose that, when collective member feelings are supported and informed by a suitable corporate policy, they can plausibly be taken to constitute corporate guilt. That policy helps those who did not contribute to the wrongdoings to attend to the fact that the collective agent did something wrong. And it enables them to appreciate that the collective agent needs to take remedial action. In this way, the policy makes a difference to how they reason. It helps them realize that, from the perspective of the collective agent, more is required than their feelings of regret suggest. Perhaps the group wrong was beyond their control, and they are personally exculpated because of this. Even so, they may well be in a position to contribute to remedial action and, as members of the guilty collective agent, have reason to do so. In this way, the normative perspective of a collective agent can function as a kind of scaffolding. Due to this scaffolding, members can prioritize the group perspective when needed and appraise situations accordingly. Their collective member emotions as such do not correspond to that of the collective agent. However, because they are closely connected to those policies, they form functional equivalents both in epistemic and motivational respects.

Malle believes that member emotions hardly affect collective agents, if at all: 'Even if individual members of a group may experience [emotional] states, they are dispensable and exchangeable—the group's structure and organization can still maintain its calm rationality.' (2010: 123) This problem is resolved when member have collective emotions

that are suitably integrated with the normative policies of the collective agent. Under these conditions, collective member emotions become a structural feature of the collective agent. As a consequence, they systematically and robustly influence group decisions. And they enable collective agents to have emotions and thereby to think, decide and act as is fitting in the situations they encounter. In light of this, I present a fourth and final proposal:

- (4) A collective agent has the capacity to have moral emotions exactly if it possesses a suitably broad range of collectively accepted normative policies that are appropriately supported by collective member emotions.

A collective agent that satisfies this account possess normative competence. The upshot is that, also from a sentimentalist perspective, it is possible to make sense of the idea that collective agents can be moral agents.

The crucial question that remains to be answered is whether this sentimentalist account of corporate moral agency supports a distinction between moral and amoral collective agents. In section 1, I argued that the difference between them is that only moral agents have an effective normative perspective. This means that an amoral collective agent lacks a normative perspective altogether, or that it is not effective because it is not suitably supported by its members. According to the proposals that I have defended, the difference between the rationalist and the sentimentalist resides in what it takes for a corporate normative perspective to be effective. Whereas the rationalist appeals to collective acceptance, the sentimentalist invokes collective member emotions. By doing so, he solves the Problem of Amoral Agency.

3. Conclusion

Just as individual agents, collective agents can but need not be moral agents. The Problem of Amoral Agency consists of the challenge of explaining how moral collective agents differ from amoral collective agents. In order to solve this problem, I have developed a theoretical framework that accommodates both *moral* and *amoral collective agency* from both a *rationalist* and a *sentimentalist* point of view. The difference between moral and amoral collective agents, I have proposed, is that the former possess and the latter lack an effective normative perspective. The framework enriches the available options in two respects. First, it offers a *rationalist* account of *amoral* collective agency. Second, it features a *sentimentalist* account of *moral* collective agency.

Thus far, rationalists about moral collective agency have equated moral agency with rational agency. As a consequence, they cannot accommodate the distinction between moral and amoral collective agents. I have argued that existing rationalist accounts are inadequate because they fail to properly explicate the normative competence of moral collective agents. I have proposed to remedy this by explicating the normative competence of moral collective agents in terms of the notion of an effective normative perspective. Sentimentalists, in contrast, have thus far denied the possibility of collective moral agency. I have argued that they need not do so. Collective member emotions can support a collectively accepted corporate normative perspective. When they do, I have proposed, they fulfill the functional roles of corporate emotions.

The idea that some collective agents might fail to be moral agents deserves more attention than it has received so far. Just as psychopaths, amoral collective agents might be harmful to society because they systematically ignore other-regarding considerations. If so, understanding the conditions under which collective agents are moral or amoral is of substantial practical significance. The framework presented here can be used as a point of departure for investigating the prevalence of amoral collective agents. It gives rise to the following two questions. First, why do some collective agents lack a normative perspective? Second, why are corporate normative perspectives sometimes ineffective? It is natural to try and answer the first question in terms of the motives of the collective agent. Even so, the context in which it operates can make a difference as well, as is suggested by my claim that market competition might crowd out morality. The second question requires examining why corporate members fail to adequately support the normative perspective of the collective agent to which they belong. A further investigation of these issues can ultimately be conducive to reducing the extent to which collective agents such as governments and corporations do bad things.

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